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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,346	12/19/2001	Nobuki Hashiguchi	IS-US000173	1807

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EXAMINER

KIM, PAUL L

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/018,346	Applicant(s) HASHIGUCHI ET AL.	
	Examiner Paul L Kim	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudt et al. in view of Mueller.

With regard to claims 1, 2, 6, 8, and 11, Rudt et al. teaches a production management system comprising: a production line including a plurality of product processing apparatus (col. 4, lines 32-36), a network that connects the apparatuses (fig. 1), one or more image taking means for producing image information by taking images of operating conditions of the processing apparatuses (abstract and col. 4, lines 61+), and image information demanding means (col. 8, lines 30+).

Rudt et al. teaches a paper processing apparatus being monitored, but does not teach an apparatus consisting of a weigher or bagger. Mueller teaches a manufacturing equipment for bagging and weighing foodstuff which contains a photo detector (abstract). It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex Parte Masham, 2 USPQ F.2d 1647 (1987). Since both Mueller and Rudt et al. are within the art of manufacturing products, it would have been obvious to one of ordinary skill in

the art, at the time of the invention, to modify Rudt et al., so that the manufacturing apparatus consist of a weigher or bagger instead of paper producing apparatuses, as taught by Mueller, in order to cut costs by using the monitoring equipment for a wide variety of uses.

Rudt et al teaches each image recording device having access to a storage means (fig. 1, part 18), but does not specify each processing apparatuses having a storage means. However, it has been held that the integration or separation of parts would depend more upon the choice of the manufacturer and the convenience and availability, than on any inventive concept. In re Lockhart, 90 USPQ 214 (CCPA 1951). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rudt et al, so that each processing apparatuses consists of a storage means, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70 (CCPA 1950).

With regard to claim 3, Rudt et al. teaches a control means for controlling the apparatuses based on image information (col. 8, lines 44-49).

With regard to claim 4, Rudt et al. teaches a warning means for issuing a warning based on comparison means between the image information and a reference (col. 7, line 12-19).

With regard to claim 7, Rudt et al. teaches a storage means for storing image information (col. 5, lines 55-58).

With regard to claims 9 and 10, Rudt et al. teaches an apparatus that monitors manufacturing operations in which images are taken before and until after a machine abnormality has occurred (col. 8, lines 4-10).

With regard to claims 12 and 13, Rudt et al. teaches a second storage means for storing information from a plurality of locations taken at different times (col. 8, lines 49-62).

With regard to claim 14, Rudt et al. teaches an abnormality detection means (col. 8, lines 30-43).

With regard to claim 15, Rudt et al. teaches a display means for displaying image information (col. 6, lines 61-64) and displaying image information from the manufacturing operations in which images are taken before and until after a machine abnormality has occurred (col. 8, lines 4-10).

Response to Arguments

3. Applicant's arguments filed December 4, 2003 have been fully considered but they are not persuasive.

With regard to arguments on page 2, in response to applicant's argument that there is no suggestion to combine the references of Rudt and Mueller, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*,

837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the invention of Rudt can be applied to a variety of manufacturing or product processing apparatuses (col. 1, lines 17-24 & col. 9, lines 1-5) such as a Mueller's bagging and weighing apparatuses.

In response to applicant's argument that Rudt does not teach a method of monitoring bagging and weighing devices, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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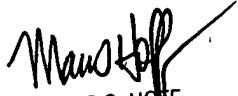
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 571-272-2217. The examiner can normally be reached on Monday-Thursday 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK
March 7, 2004


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800